

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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Angelia J. Larson,

Plaintiff,

vs.

ORDER

Wells Fargo Bank N.A.,
and Federal Home Loan
Mortgage Corporation,

Defendants.

Civ. No. 09-3720 (MJD/RLE)

* * * * *

To: Samuel V. Calvert, Sam V. Calvert, PA, 1011 2nd St. N. Ste.
107, St. Cloud, MN 56303.

* * *

This matter came before the undersigned United States Magistrate Judge upon a general assignment made in accordance with Title 28 U.S.C. §636(b)(1)(A), and upon the routine supervision of cases in this Division.

It appears from the Record that this action was commenced on or around December 5, 2009, in the Minnesota District Court for Big Stone County. See, Notice of Removal, Docket No. 1, ¶1. On December 29, 2009, the Defendant Wells Fargo

Bank N.A. filed a Notice of Removal with this Court, alleging jurisdiction under Title 28 U.S.C. §§1331 and 1332. Id. at ¶3. However, to date, the Defendants have not filed an Answer or a responsive Motion.

As pertinent here, Rule 81(c), Federal Rules of Civil Procedure, provides the following:

(2) After removal [of a State Court action to Federal Court], repleading is unnecessary unless the court orders it. A defendant who did not answer before removal must answer or present other defenses or objections under these rules within the longest of these periods: (A) 21 days after receiving -- through service or otherwise -- a copy of the initial pleading stating the claim for relief; (B) 21 days after being served with the summons for an initial pleading on file at the time of service; or (C) 7 days after the notice of removal is filed.

It would appear that those deadlines have passed, and that no Answer has been filed by the Defendants.

Nevertheless, Rule 81(c), as well as the Local Rules of this District, require that an Answer or other pleading be filed or, if the Defendants should choose to respond to the Complaint by a Dispositive Motion, that such a Motion be timely filed in accordance with the Local Rules of this Court. Although an initial Motion for an extension of time will be liberally construed by the Court in the absence of any

objection by opposing counsel, the Court does not permit counsel, by agreement, to extend the time for complying with these procedural requisites.

NOW, THEREFORE, It is --

ORDERED:

That counsel for the Plaintiff is directed to:

1. Notify the Defendants Wells Fargo Bank N.A., and the Federal Home Loan Mortgage Corporation, that they are required to serve and file an Answer or some other responsive pleading, or to move for an extension of time to do so, and that an application for entry of default is required within ten (10) days of such notification if no response is filed;
2. File an application for entry of default unless the required pleadings are filed within ten (10) days of the referenced notification; or
3. Advise the Court in writing of any good cause to the contrary.

Unless counsel for the Plaintiff complies with this Order within twenty (20) days of the date of this Order, this case may be dismissed for lack of prosecution.

BY THE COURT:

Dated: February 16, 2010

s/ Raymond L. Erickson
Raymond L. Erickson
CHIEF U.S. MAGISTRATE JUDGE